

The Senator from Kentucky.

### HOMELAND SECURITY

Mr. MCCONNELL. Madam President, the homeland security bill is being held up because some labor unions want to put their special interests ahead of the collective interests of the Nation's security. Remember, these unions are not fighting against any increase in the President's authority to override collective bargaining agreements in the interest of national security. No, they actually want to roll back this authority that every President has had and has used since President Jimmy Carter.

How do union special interests affect national security? Here are just a few examples:

In 1987, a union objected to renovating border protection areas at Logan Airport—the same airport used by the 9-11 hijackers.

In 1990, a union prevented the INS from adding extra immigration inspectors in the Hawaii airport because it might affect the overtime pay of existing workers.

In 2000, a union objected to a Customs Service drug interdiction along the Florida coast because it would interfere with vacation days.

Let me say that again. In 2000, a union objected to a Customs Service drug interdiction along the Florida coast simply because it would interfere with vacation days.

So why are our colleagues on the other side advancing the labor union's agenda? Well, let's take a look at this chart. Four of the five major public sector unions who are publicly pushing for the Lieberman bill have showered over 93 percent of their campaign contributions to Democrats. The fifth contributed 87 percent.

Here are the top contributors supporting the Lieberman bill: American Federation of State, County, and Municipal Employees contributed 99 percent of their funds to Democrats; American Federation of Teachers, 99 percent; International Association of Fire Fighters, 87 percent; American Federation of Government Employees, 93 percent; and National Treasury Employees Union, 94 percent.

When it comes to the accusations of linking campaign contributions to political payoffs, my Democratic colleagues and their friends in the media continue to believe influence pedals down a one-way street. Remember the energy bill? You could hardly sit down to breakfast in the morning without reading about how Republicans were shamelessly catering to big oil and big energy interests at the expense of the environment. These accusations have blared forth from every corner of the media establishment. The New York Times—surprise, surprise—on several occasions editorialized about big money driving the energy bill, essentially viewing it as a payoff to oil companies and their friends in the adminis-

tration, which include “the biggest and dirtiest utilities.”

The Boston Globe judged a House-passed energy bill as “little better than the one cobbled together by Enron, other utilities, and big oil for the Bush administration.”

The Fort Worth Star ominously warned of the “propriety of allowing big contributors to shape public policy to their personal benefit.”

The Greensboro, North Carolina News and Register declared “clearly something is wrong when big business shapes the nation's energy policy.”

This rhetoric also blared forth from my colleagues on the other side of the aisle who charged this bill was “crafted behind closed doors,” and that it “looked like the Exxon-Mobil report,” and that Exxon-Mobil, Enron, and Chevron enjoyed an excess bonanza at the expense of consumers.

Finally, the rhetoric blares out of our television sets every Wednesday night at 9 o'clock on the “West Wing,” a 60-minute political commercial masquerading as a television drama. On the premiere last week, the pretend president proclaimed, “The Republicans are busy. They are trying to convince us that they care about new energy and that they are not in the vest pockets of big oil, and that is a tough sell.”

He then charged, “This isn't the time for people whose doomsday scenario is a little less at the pump for Texaco and Shell. This isn't a time for people who say there aren't any energy alternatives just because they can't think of any. This is the time for American heroes, and we reach for the stars.”

Mr. President, this is a gift from NBC and GE to the Democratic Party, financed by millions of—you guessed it—corporate dollars. That is what the “West Wing” has been. I hope Senators don't dispute these corporations have a right to express political opinions. I do not believe political donations dictate public policy. In fact, I have been vigorously involved throughout my career defending the right of all these entities to contribute to the candidates of their choice and say, through issue advocacy, whatever they choose to say during the course of a year.

But as long as people are going to make that charge, they ought to do it evenly. For those who do believe contributions impact policy, then let's, in the name of basic fairness, apply the same scrutiny to unions on the homeland security bill that the New York Times, NBC, and my Democratic colleagues applied to energy companies on the energy bill. If they did, here is what they would find. The biggest public sector unions—American Federation of State, County, and Municipal Employees; the American Federation of Teachers; International Association of Fire Fighters; the American Federation of Government Employees; and the National Treasury Employees Union—give almost 9 out of every 10 cents to Democratic candidates. Their

agenda to weaken the President's national security powers is being advanced by the beneficiaries of those contributions. But we are hard-pressed to find anybody or any hotly accusatory stories in the New York Times or on CNN.

Remember, Madam President, when corporate corruption called for a corporate accountability bill, unions—many of which were knee-deep in financial corruption themselves—rallied to block a very modest amendment to require better disclosure, simple disclosure on union financial reports.

So where are the editorials in the New York Times? Where are they connecting the dots and condemning the specter of influence peddling? Where are the rants from my colleagues on the other side of the aisle against the influence-peddling of big union bosses? Where is that episode of the “West Wing”—you know, the one where the pretend president tells Josh and Sam, above the obligatory orchestral crescendo, how much he yearns for “American heroes” to sever the menacing hold unions have on the homeland security bill?

I could settle down in my favorite chair every Wednesday night at 9 p.m. waiting for that episode, but I am not a fool. My mother didn't raise any children as fools. I know that would be a wait in vain, for there are too many other Republican bogeymen to expose, too many conservative policies to mock with the elitist derision only Hollywood can muster, too many ways to stage easy political victories that real-life Democrats are simply unable to win in Congress because too many hard-working Americans do not believe in them.

I call on my colleagues to put aside the pet grievances of the labor unions and return to the task at hand because I just don't see how any of us can go home and explain to the families in our States we may be giving the President less power to protect them than he had before September 11.

So it continues to be my hope we will be able to get an up-or-down vote on the President's homeland security bill. It seems to me that is not asking too much. I know the Senator from Texas, and others, have spent an enormous amount of time to see to it the President's proposal at least gets an up-or-down vote in the Senate.

I yield the floor.

Mr. KYL. Mr. President, I come to the floor today in opposition to the Lieberman Homeland Department proposal and in support of the Gramm/Miller, administration-supported, bipartisan substitute. As Senator GRAMM and others have so ably demonstrated, the Lieberman proposal takes away the President's existing authority to exempt personnel in the new department from collective bargaining requirements when national security requires it. The substitute reinstates the President's authority in this area.

While I understand that those on the other side might have a different political agenda than the President of the United States on this, time has almost run out. If we don't soon get together and acknowledge the importance of passing a bill to allow Government to better deal with the threat of terrorism, Congress might adjourn without passing anything. After 6 weeks of Senate floor consideration, that would be a shame.

Under the Lieberman approach to providing labor flexibility to the President when it comes to issues of national security, the President would be better off with the agencies as they exist, coupled with his authority, from an administrative or executive point of view, to move people around within those agencies; he would be better able to achieve his goals without any legislation than by adopting the legislation that is before us or under the amendment being proposed by the Senators from Nebraska, Rhode Island, and Louisiana.

The labor issues that we must settle in this bill are extremely important, but I believe they are moving the debate far from some of the other important differences between the Lieberman homeland bill and the Republican homeland, Gramm-Miller, substitute. As the Senate continues to consider the homeland security proposal pending in Congress, I want to reemphasize the relatively few, but very important changes, that the Republican substitute makes to address border and immigration security concerns raised by the Lieberman substitute.

"Division B" of the Lieberman bill creates the "Immigration Affairs Directorate," with an undersecretary to oversee all immigration functions of the U.S. government. "Division A" of the Lieberman bill, among other things, creates the "Border and Transportation Protection Directorate," with an undersecretary to manage all activities and policies related to border and transportation security.

Under Division B, all immigration functions, including all immigration enforcement functions—intelligence, investigations, detention, border patrol, and border inspections—are under the "Immigration Affairs Directorate," informally referred to as the "Immigration Affairs box." The problem with this approach is that it leaves a gaping hole in the "Border and Transportation box." One of the biggest priorities of the Bush administration, and of the Congress, has been to create a more streamlined border, both along the U.S.-Mexico and U.S.-Canada border. The Lieberman bill, by refusing to move the Border Patrol and border inspections functions out of the Immigration Affairs box and into the Border and Transportation box, will only exacerbate the coordination problems that currently exist at our nation's southern and northern border. Most importantly, coordination of personnel and the sharing of security information will be compromised.

Mr. President, all of our Nation's immigration enforcement functions, including intelligence, detention, and investigations, have border components and could arguably be better placed with the undersecretary for Border Protection. At the very least, I repeat, the Border Patrol and Border Inspections functions should be included in the Border and Transportation box.

Instead, in the Lieberman proposal, a bare-bones, almost meaningless "Border and Transportation" box is created. It includes Customs, but maintains that Customs is its "own distinct entity" so that Customs can continue to operate almost independently of the Under Secretary of the Border and Transportation Directorate, Coast Guard—again as a distinct entity, divisions of the Animal and Plant Health Inspection Service, and the Federal Law Enforcement Training Center, FLETC. Without including Border Patrol and border inspections as a function of the Border Protection Directorate, this "box" will not effectively streamline much border activity at all. Another ironic point is that FLETC is included in the Border Protection box. FLETC trains Border Patrol agents and yet the Border Patrol is not included in the Border Protection box.

Mr. President, the Republican substitute, or Gramm-Miller substitute as it is known, in this area is a much wiser approach—it includes the Border Patrol and Border Inspections functions in the Border and Transportation Directorate. This will allow for better coordination of resources and elimination of duplicative functions at the border. Protecting our borders is one of our first lines of defense against terrorism, and we must get it right.

Another major problem with Division B, "Immigration Affairs," of the Lieberman bill is its inclusion of language that would abolish the Executive Office for Immigration Review and create within the Department of Justice what amounts to an independent agency for immigration judges.

Immigration law is complicated. There is a process by which you have a decision made, a review of that decision, and eventually the final review all the way up the chain into the Department of Justice by the Attorney General of the United States. There is a body of case law built around this. There are procedures that are built around it. As far as I know, those procedures are working. I do not know of any reason, for homeland security, why we would want to change that.

It seems at the very least that the Lieberman language, which designates when and how this new Executive Office for Immigration Review operates, needs to be changed so that the checks and balances that exist today with respect to EOIR will continue to exist—the Gramm-Miller substitute maintains this check by keeping the currently-existing authority for review of EOIR decisions with the Attorney General.

Mr. President, one of the most critical functions of the reorganization of agencies that deal with our homeland security is the border function, and we must get it right. Let's work to pass the Gramm/Miller substitute, which, among the numerous other important improvements, incorporates two important border/immigration changes to the pending Lieberman homeland bill.

Mr. GRASSLEY. Mr. President, I would like to take a few minutes to speak in support of an amendment that Senator BAUCUS and I introduced which modifies the Customs provisions of the homeland security bill.

The creation of a Department to oversee homeland security is a tremendous undertaking for Congress and the White House which will face multiple challenges. This is certainly true in the context of incorporating the U.S. Customs Service into the new Department.

The U.S. Customs Service is one of the oldest agencies in the U.S. Government. Created in 1789 to enforce U.S. tariff policy, the agency's mission has continually adapted to meet the changing needs of our Nation.

Today, it is one of the most modernized agencies in the U.S. Government, responsible for managing over 23 million entries and 472 million passengers a year. It collects over \$23 billion dollars in duties and fees and is responsible for seizing millions of pounds of contraband narcotics every year. The Customs Service is a vital component of our Government.

Given the importance of the agency in facilitating international trade and law enforcement, I think we have an obligation to do everything we can to enhance the effectiveness of the new Department as it moves from Treasury to Homeland Security.

That is why I, working closely with Senator Baucus, developed a series of recommendations regarding the Customs Service which we presented to the Committee on Governmental Affairs early in the process of developing this bill.

I would like to take this opportunity to thank Senators LIEBERMAN and THOMPSON for incorporating the vast majority of our recommendations into the homeland security bill. I especially appreciate the collegial and bipartisan spirit in which the recommendations were developed and adopted by the committee. I think we will have a much better product because of our joint efforts.

The additional changes we are offering to the bill will further enhance the effectiveness of the Customs Service as it moves into the Department of Homeland Security.

The ability of the Customs Service to effectively facilitate international trade while at the same time perform its law enforcement functions is in large part due to the cooperative relationship which the Customs Service has with much of the international trade community. This cooperative relationship benefits both parties and has

been developed over a long period of time. By understanding the business community and how international trade actually works, the Customs Service is much more adept at identifying anomalies in trade patterns that often point to illicit activity. I want to make sure these relationships are not lost with the transfer of the Customs Service to Homeland Security.

Part of the key in maintaining this traditional cooperative relationship is to maintain the advisory elements on which they are built. This means carrying forth such committees as the Treasury Advisory Committee on the Commercial Operations of the Customs Service, or COAC, to the new Department of Homeland Security. This is precisely what our amendment does.

I also want to make sure the international trade functions of the Customs Service continue to receive adequate resources to continue their work. A good example of this is the continued construction of the automated commercial environment, or ACE. Currently, the automated commercial system is the only comprehensive mechanism to monitor trade flows. Yet it is antiquated and subject to periodic slowdowns. We must do better.

That is why I strongly support rapid and efficient deployment of ACE, the automated commercial environment. The ACE system will be key to facilitating economic trade in the future. We must make sure that, even in these times of tight budget constraints and intense focus on homeland security, we continue to provide Customs with the funds needed to get the ACE system up and running. A well-functioning automated mechanism for monitoring trade flows will help facilitate international trade and help Customs more effectively perform its law enforcement functions.

Our amendment establishes a new account within the Customs Service called the Customs Commercial and Homeland Security Automation Account. For fiscal years 2003 through 2005, \$350 million in Customs user fees would be allocated specifically to this account. Creation of this account will ensure that sufficient funding is available to complete construction of the automated commercial environment ACE after Customs moves from the Department of the Treasury to Homeland Security.

As we move forward in enhancing our border security efforts, it is important to keep in mind that a large part of homeland security is economic security. And, international trade is a critical component of our economic security. Exports alone accounted for 25 percent of U.S. economic growth from 1990–2000. Exports alone support an estimated 12 million jobs. Trade also promotes more competitive businesses—as well as more choices of goods and inputs, with lower prices. If we impede trade, we impede our own economic growth and our own well-being.

The tragedy of September 11 make it clear that the United States must be at

the forefront in developing the border technologies and enforcement methodologies which will enable our economy to prosper and grow in the new global environment. We cannot afford to do any less. A nation which master the competing goals of international trade facilitation and border security will be a nation which can confidently embrace new world trading system. It will be a nation which prospers well into this new millennium. I stand ready to work with my colleagues and President Bush to make sure our Nation rises to meet this challenge.

Mr. FEINGOLD. Mr. President, I rise today to express my support for the amendment offered by the Senator from Nebraska, Mr. NELSON, and others to protect the rights of the thousands of Federal employees who will be transferred to the proposed Department of Homeland Security, and to express my opposition to the amendment offered by the Senator from Texas, Mr. GRAMM and the Administration's efforts to lessen those rights.

The employees of the 22 agencies that are slated to be reorganized into the Department of Homeland Security are on the front lines of the effort to respond to and investigate the September 11 attacks and to prevent further acts of terrorism. These dedicated men and women, who have served the American people during this uncertain time, are about to undergo a professional upheaval while at the same time being expected to maintain their high level of performance. This massive reorganization should not be used as an excuse to take from these employees the one constant that they expect would follow them to their new department: the Federal civil service protections which they all have in common, regardless of their current home agency.

The civil service system was put into place in order to end the corrupt patronage system that had permeated government hiring and advancement. The creation of a new department should not be used as an excuse to roll back these protections and plunge these workers into uncertainty regarding their professional futures.

I am concerned that the administration appears ready to use the creation of this new cabinet-level department as an opportunity to eliminate or weaken the civil service protections currently in place for the Federal employees who would be transferred to the that department. Unless it is amended by the Nelson amendment, the pending Gramm amendment would have this effect of weakening these civil service protections.

Some in the administration and some on this Senate floor have argued that the civil service system is rigid and could prevent the new Secretary from acting quickly in the face of an imminent threat. This is not the case. The existing civil service system already provides the administration with broad flexibility, while at the same time ensuring that Federal workers have a

consistent framework of basic protections, including appeal rights. This flexibility is important in an issue as critical as our Nation's security, but the underlying Lieberman substitute and the Nelson amendment would provide the flexibility needed.

Supporters of stripping these protections also have argued that the new Department should be allowed to scrap the existing system because that system has some problems. The ongoing debate over civil service reforms should not be used as an excuse to allow the Department of Homeland Security to be the only Federal department with employees who are not covered by this system.

I regret that the administration has issued a veto threat against the Senate Homeland Security bill as reported by the Governmental Affairs Committee because it ensures that the approximately 170,000 federal workers slated to be transferred to the new department would retain basic civil service protections. Civil service protections level the playing field for Federal workers, ensuring that they are treated equitably. To propose to treat workers in one department, many of whom have had these protections for years, differently from their counterparts in other departments would undermine seriously the entire civil service system.

No one, including the President, has demonstrated how maintaining these basic protections could jeopardize our national security. We can protect both our country and the rights of our workers. In fact, we can better protect our country if our workers' rights are well-protected, too. The United States affords its workers some of the best labor and employment protections in the world. But a wholesale elimination of those rights under the guise of homeland security would send exactly the wrong message.

The amendment offered by the Senator from Nebraska would grant the new Secretary of Homeland Security expanded authority to create a new personnel system while still ensuring that the rights of workers are protected. This compromise will help to ensure that workers have input into the structure of any new system that is created. As a number of our colleagues have said, it would be harmful to worker morale and to worker-management relations to simply foist a new system upon these workers without their input and then expect them to accept it.

In addition to basic civil service protections, the Nelson amendment addresses the issue of collective bargaining. I support the right of workers to join a union and I am troubled that the administration appears poised to strip existing union representation and collective bargaining rights from many of these workers. I also am troubled by the implication that union membership is somehow a threat to our national security.

The Nelson amendment would allow workers who are covered by existing

collective bargaining agreements to keep those rights. It does not hamper the ability of the new Secretary or the President to remove collective bargaining rights from individual workers or newly-created agencies within the department if there is a valid national security concern. Simply being an employee of a department with the word "security" in its name is not sufficient cause to be stripped of collective bargaining rights.

I urge my colleagues to support the Nelson amendment and to oppose the Gramm amendment.

# 21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT—CONFERENCE REPORT—Continued

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I am glad we are on the Department of Justice authorization. As I said earlier, I appreciate the fact the distinguished majority leader moved to it. This is actually a very important bill. At a time when it seems so much good legislation is being stalled, it would be a shame if this was, too.

I know since January of last year Senate Democrats have tried to bridge the gap and make bipartisan progress on campaign finance reform, corporate accountability, and a real Patients' Bill of Rights, and a number of bipartisan anticrime, antidrug, antiterrorism bills. We worked with the administration after September 11 on the USA Patriot Act; we passed that in record time. We created the September 11 victims' trust fund and we enhanced border security.

We tried to work as supportive partners in the effort against terrorism. Throughout that effort in the Judiciary Committee, we rose above the bitterness and partisanship that had been exhibited by my predecessors during the last 6 years of the previous administration. We have held more hearings on more judicial nominees and held more committee votes on them and confirmed more judges in 15 months than the Republicans were willing to confirm in the last 30 months when they controlled the Senate.

I emphasize that for the 30 months prior to the change in the control of the Senate, the Republicans controlled the Senate Judiciary Committee during both the time of President Clinton and President Bush. In the 15 months we have been in control—it has been only with President Bush—we have put through twice as many judges in 15 months. We put through more judges in 15 months than they did in 30 months.

I mention this because some at the White House, who should know better, talk about the holdup on judges but do not like it when they are reminded that we have done more under President Bush than they did for both President Bush and President Clinton during a period twice as long. It is an interesting point.

I remember Adlai Stevenson once said to some of his Republican friends: If you promise to stop talking lies about us, I will stop talking the truth about you. But I find the statements and statistics continue, so I thought I would throw a little truth on the matter.

I mention this because we have tried to go more than halfway. As I said, during 15 months, we moved more judges than the Republicans did during 30 months. We have reached out in order to pass legislation from our committee—and the distinguished Presiding Officer is a valued member of that committee—and passed out piece after piece either unanimously or by a strong bipartisan majority. We passed intellectual property legislation, consumer legislation, anticrime legislation, antidrug legislation, but then mysterious Republican holds came up and stopped them.

Here are some of the bills we passed out of the committee that have been held up on the Republican side: the Leahy-Grassley FBI Reform Act; the Hatch-Leahy Drug Abuse Education Prevention and Treatment Act; the DREAM Act, championed by Senators Durbin and Hatch; a charter amendment to the Veterans of Foreign Wars, something totally without partisanship. We passed it unanimously, as the distinguished Senator from Washington State knows. We passed out a charter amendment to the Veterans of Foreign Wars, a nonpartisan request. We cannot get it through the Senate because it is being held up on the Republican side of the aisle.

We passed out a charter amendment for AMVETS, a wonderful veterans organization. The distinguished Presiding Officer and I voted for it and it was voted unanimously out of our committee. It is being held up on the Republican side of the aisle.

We passed out a charter amendment for the American Legion. Every Democrat voted for that. Every Democrat has agreed: Move that through the Senate. It is being held up on the Republican side.

Now we find there is a Republican hold on the Department of Justice Appropriations Authorization Act. This is the first one in 21 years. It passed in the House of Representatives by a vote of 400 to 4. The chief sponsor is a leading Republican Member of the House.

We strengthen our Justice Department, increase our preparedness against terrorist attacks, prevent crime and drug abuse, improve our intellectual property and antitrust laws, strengthen our judiciary, and offer our children a safe place to go after school. It is a product of years of work.

I commend Senator DASCHLE for bringing this up for a vote. Let me show my colleagues some charts. This is not a hodgepodge where one might go in and look as to whether you wear a green tie or paisley tie or drive a blue car or a black car; this is something that really affects Americans.

It was passed by the House of Representatives. If it is allowed to come to a vote, it could pass easily in this body: border security, domestic preparedness, suppression of financing terrorism treaty.

Let me mention the last part. We worked this out with the Bush administration. They said there is a difficulty in following the money used by terrorists around the world. We know how quickly President Bush and Secretary O'Neill moved after September 11 last year to freeze the assets of some of these terrorist groups, and I commend the President for that action; I praise the President for doing that. But I wish the President now would tell his own party that we have the legislative tools that President Bush has asked for to go after the money of terrorists, and it is being blocked on the Senate floor by a Republican hold.

Let's pass this. Let's do what we all know has to be done. This is not partisan—grabbing the money of terrorist organizations that are after the United States. That is not a Democratic or Republican issue. But when every single Democrat said they will vote to go after that money, it is time for the anonymous Republican who has a hold to let us go forward.

Let me show a few other items that are in the bill. We improve law enforcement. We have FBI reform and FBI agent danger pay. Some of these FBI agents are working in some of the most dangerous places, especially overseas. Sometimes their mere presence targets them for assassination. This is agent danger pay. We ought to be doing that.

The Body Armor Act is something every law enforcement agency from which I have heard wants to protect police officers from those who would attack them. I cannot understand why this is being held up on the other side. We ought to go forward with this bill. We ought to pass it. We ought to tell our law enforcement officers that we will help them.

Senator CARNAHAN's Law Enforcement Tribute Act is in this legislation. It authorizes grants to States, local governments, and Indian tribes for memorials to honor killed or disabled officers while serving as law enforcement safety officers. How can anybody oppose that without looking terribly political? Senator CARNAHAN deserves credit for this bill.

Senator FEINSTEIN and Senator SESSIONS joined in a bipartisan effort on the Body Armor Act. That should be allowed to go through.

Then we have some ways to stop crime from happening in the first place. We reached a bipartisan agreement to give the Boys and Girls Clubs the funds they need for 1,200 additional clubs across the Nation. Next to motherhood and apple pie, I cannot imagine anything that should have more support than helping the Boys and Girls Clubs of America. We have an excellent one in Burlington, VT. I know it very well. It just celebrated its 40th birthday.